

UNITED STATES COURT OF APPEALS January 28, 2010

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

RODNEY JOE FILLMORE,

Plaintiff - Appellant,

v.

LARRY THOMSON; APRIL
THOMSON, husband & wife,

Defendants - Appellees,

CITY OF OSAGE CITY, a Kansas
municipal corporation; LARRY J.
PHILLIPS; ROBERT T. DUNHAM;
JOHN DOE and/or JANE DOE,

Defendants.

No. 09-3373
(D.C. No. 5:09-CV-04102-RDR-KGS)

ORDER

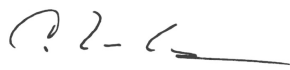
On December 23, 2009, this court issued an order directing the appellant to show cause, within 21 days, why this appeal should not be dismissed due to the absence of a final judgment or, alternatively, provide this court with a copy of a district court order either granting certification under Fed. R. Civ. P. 54 (b) or adjudicating his remaining claims. The order also advised the appellant that his failure to respond to the show cause order could result in dismissal of this appeal for lack of prosecution.

Appellant has not responded to the order to show cause. (The court notes that a final judgment has not been entered by the district court and that the district court has declined to grant certification under Fed. R. Civ. P. 54 (b).)

This appeal is dismissed for lack of prosecution. 10th Cir. R. 42.1.

When the district court enters a final, appealable judgment, appellant may appeal, if he wishes.

Entered for the Court
ELISABETH SHUMAKER, Clerk of Court,


by:
Christine Van Coney
Counsel to the Clerk